

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

TATYANA A. BABAKAEVA, )  
                            )  
                            Plaintiff, )  
                            )  
                            v.                  )                              Civil Action No.: 4:09cv58  
                            )  
PAUL H. WILSON and     )  
WILSON & WILSON, P.C.,     )  
                            )  
                            Defendants. )

**MEMORANDUM IN SUPPORT OF MOTION TO STAY**

The Defendants, Paul H. Wilson (“Wilson”) and Wilson & Wilson, P.C. (“Wilson & Wilson”)(collectively, the “Defendants”), submit this Memorandum in support of their Motion to Stay the pending action. This case involves the Plaintiff’s claims against the Defendants all of which arise out of Wilson’s former representation of Tatyana A. Babakaeva (“Babakaeva”) in divorce proceedings which were pending in Hampton Circuit Court. Although Babakaeva has alleged a variety of claims, one of the central allegations concerns Wilson’s handling of funds deposited in the firm’s trust account following the sale of Babakaeva’s former marital residence. These funds were directed to be retained by the Wilson firm until further order of the Hampton Circuit Court. A copy of the Decree directing the firm to retain the funds is attached to this Memorandum as Exhibit “A”.

Since entry of the Decree, the Hampton Circuit Court has made no further orders concerning the disposition of the escrowed funds. As a result, on November 4, 2009, following the institution of this action, the Wilson firm filed an Interpleader Action and

deposited the funds with the Clerk of the Circuit Court for the City of Hampton. A copy of the Interpleader Action is attached as Exhibit "B".

The Interpleader Action eliminates Babakaeva's objection that the Hampton Circuit Court lacks jurisdiction over the funds and restores to that venue the ability to make a final disposition of this former marital asset. As a result, resolution of the Interpleader will effectively dispose of one of the central claims underlying Babakaeva's claim in this Court. Moreover, because the Interpleader includes as a party Babakaeva's ex-husband, Nikolai I. Sinkine, (who also shares a claim to the escrowed funds) resolution of the Interpleader Action prior to this Court's ruling on Babakaeva's claims will prevent Wilson and the Wilson & Wilson firm from being exposed to multiple or inconsistent liability.

In addition to the Interpleader Action, Babakaeva is presently litigating two other matters in the Circuit Court for the City of Newport News, both of which affect the escrowed funds and Babakaeva's claims in this case. In *Jones, Blechman Woltz & Kelly, PC v. Sinkine and Babakaeva*, Newport News Circuit Court Case No. 0901007V-04, Sinkine's former attorneys are seeking to recover attorney's fees. This case was initially filed in Circuit Court, removed to Federal Court, voluntarily dismissed and thereafter refiled and now pending before the Newport News Circuit Court. Babakaeva has moved to intervene in the Jones, Blechman action alleging it somehow relates to the escrowed funds. A hearing on Babakaeva's motion is set for December 15, 2009.

Similarly, Wilson & Wilson filed a suit against Babakaeva in the Hampton General District Court seeking to recover unpaid attorney's fees. In that case, Babakaeva raised as affirmative defenses many of the issues she now seeks to re-litigate in this case.

In particular, Babakaeva raised issues of alleged improper billing, all of which were resolved against her by the Hampton General District Court. Babakaeva appealed that matter to the Hampton Circuit Court. It was then transferred to Newport News Circuit Court where it is now pending under the style of *Wilson & Wilson, PC v. Tatyana Babakaeva*, Case No. CL0900448V-04. The state court collection action was filed prior to Babakaeva instituting this action and its resolution will affect the Defendants' liability, if any, to Babakaeva.

As a result of the risk of multiple and inconsistent liability, the Defendants respectfully request that the Court enter an Order staying this action for a period of 60 days to allow the underlying state court matters to proceed towards resolution. In the event the matters are not resolved within 60 days, the Defendants request that the parties convene for a status conference with the Court to determine a new trial date, the necessity of adding Sinkine as an additional party, and issues which may remain outstanding following the state court actions.

In addition to the foregoing, the Defendants have been required to substitute counsel as a result of the pending appointment of their original attorney, Douglas E. Miller, to a magistrate judgeship in this Court. Mr. Miller's appointment is scheduled to become effective February 1, 2010, prior to the currently scheduled trial date of February 2, 2010. The undersigned is not available to try this case on February 2 and 3, 2010 as a result of a trial commitment in Roanoke, Virginia that same week, and another trial in Richmond, Virginia the following week.

WHEREFORE, the Defendants, by counsel, respectfully request that the Court grant their Motion to Stay and enter and Order staying this action with all deadlines

expired and unexpired to remain in their current posture, pending a status conference at the conclusion of the period of stay.

**PAUL H. WILSON and WILSON & WILSON, P.C.**

By: /s/ James H. Shoemaker, Jr.  
James H. Shoemaker, Jr. (VSB 33148)  
Douglas E. Miller (VSB 38591)  
Patten, Wornom, Hatten & Diamonstein, L.C.  
Suite 300  
12350 Jefferson Avenue  
Newport News, VA 23602  
Tele: (757) 223-4536  
Fax: (757) 223-4518  
jshoemaker@pwhd.com  
dmiller@pwhd.com  
*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** on December 2, 2009, that I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following. I also served a true copy of the foregoing via first-class mail, postage prepaid, on:

Tatyana Babakaeva  
2124 Criston Drive  
Newport News, VA 23602

*Plaintiff, appearing pro se*

/s/ James H. Shoemaker, Jr.  
James H. Shoemaker, Jr. (VSB 33148)  
Douglas E. Miller (VSB 38591)  
Patten, Wornom, Hatten & Diamonstein, L.C.  
Suite 300  
12350 Jefferson Avenue  
Newport News, VA 23602  
Tele: (757) 223-4536  
Fax: (757) 223-4518  
jshoemaker@pwhd.com  
dmiller@pwhd.com  
*Counsel for Defendants*